

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 509 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KAMAL VASUDEV JOSHI

Versus

NO RESPONDENT

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Appearance:

MR PB MAJMUDAR for Petitioners

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 05/04/99

ORAL JUDGEMENT

Since both the parties have jointly preferred this petition, it is taken up today for final disposal. Rule is accordingly issued.

2. Heard Mr. Majmudar, the learned advocate appearing for the petitioners who are also present before the Court. The petitioners have moved Special Marriage Petition for obtaining dissolution of their marriage by consent. They jointly moved an application dated 15th

March, 1999 under section 29 of the Special Marriage Act, 1954. The learned Judge of the City Civil Court at Ahmedabad (Court No. 14) while holding that the Court has discretion under section 29 of the aforesaid Act to allow the petition before expiry of the statutory period of one year, held that the petitioners could not present before the Court special circumstances for exercising such discretion in their favour. He, therefore, rejected the application. That is how the petitioners are before this Court.

3. Mr. Majmudar, learned advocate for the petitioners who are also present before this Court has pressed into service the following ground for exercising the discretion:

"(H) Both the petitioners have suitable match for each other ready and if they get divorce, they can marry immediately. So, if permission is not granted, it will ruin their life. "

It is, no doubt, true that the aforesaid ground did not appear before the learned trial Judge. However, the ground on the face of it clearly indicates special circumstances for exercising the discretion in favour of the petitioners herein to entertain the petition before the expiration of the statutory period. Since now the facts set out in the aforesaid ground would indicate the urgency of the matter, following order is passed for the ends of justice :

The order dated 16th March, 1999 shall stand replaced by this order whereby the statutory period of one year is waived and the joint petition of the petitioners is hereby directed to be taken up for hearing and disposal in accordance with law while waiving the statutory period. Rule is accordingly made absolute with no order as to cost.

5.4.1999. (M.S.Parikh,J.)

Vyas